

REMARKS

Applicant respectfully requests reconsideration of the captioned application in view of the foregoing amendments and these remarks.

The present response cancels claims 1-2 and 4-6, without prejudice or disclaimer, and revises claim 3 to independent form. Upon entry of this response, claim 3 will be pending.

In the present action, claim 3 is subject only to rejections under Section 1010 and Section 112, respectively. The latter rejection is premised on what the examiner contends is “insufficient assurance that the required deposit” of recited microorganism strains “has been made” (action at page 4, first full paragraph).

Without acquiescing to the examiner’s allegation, applicant presents with this response a supported statement by the undersigned, as an attorney of record, that (A) the deposits in question have been accepted by a Budapest Treaty depositary and (B) all restrictions on public access to the deposited material will be irrevocably removed upon the granting of a patent on the captioned application.

The undersigned does not himself have “authority and control over the conditions of deposit” (action at page 4, line 10), something not required by the PTO rules, MPEP Ch. 2400. The undersigned does speak for the party that holds that authority, namely, the assignee of this application.

In light of the foregoing, applicant requests withdrawal of the pending Section 112 rejection. Moreover, since amended claim 3 prescribes an “isolated microorganism,” applicant further requests reconsideration and withdrawal of the pending Section 101 rejection.

Applicant submits that the application is in condition for allowance, and an early indication to this effect is respectfully requested. Examiner Mondesi is invited to contact the undersigned directly, should he feel that any issue requires further consideration.

The Commissioner also is hereby authorized to charge any additional fees, which may be required under 37 CFR §§ 1.16-1.17, and to credit any overpayment to Deposit Account No. 19-0741. Should no proper payment accompany this response, then the Commissioner is authorized to charge the unpaid amount to the same deposit account. If any extension is needed for timely acceptance of submitted papers, then applicant hereby petitions for such extension under 37 CFR §1.136 and authorizes payment of the relevant fee(s) from the deposit account.

Respectfully submitted,

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By Stephen A. Bent

FOLEY & LARDNER LLP
Customer Number: 22428
Telephone: (202) 672-5404
Facsimile: (202) 672-5399

Stephen A. Bent
Attorney for Applicant
Registration No. 29,768